



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,088	02/03/2004	Juan Cartos Minano	3084.021	2569

26375 7590 12/06/2006

SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP
1010 PEACH STREET
P.O. BOX 31
SAN LUIS OBISPO, CA 93406

EXAMINER

CHOI, JACOB Y

ART UNIT PAPER NUMBER

2875

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/772,088

Applicant(s)

MINANO ET AL.

Examiner

Jacob Y. Choi

Art Unit

2875

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

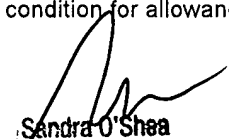
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

Art Unit: 2875

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed November 8, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that during telephone conversation (e.g., not a formal telephone interview) with attorney, Steven M. Freeland, on November 3, 2006 examiner raised some issues with the claim language. For example, claim 1 recites "... a re-imaging reflector positioned partially about the first light source, where a percentage of light emitted from the first light source is reflected from the re-imaging reflector to the reflective base adjacent the first light source establishing a first real image of the first light source adjacent the light source such that the reflective base reflects the light of the first real image ... etc." where the limitation is considered unclear since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. The examiner and her supervisor, Sandra O'Shea, has suggest modification of such claim to read "... a re-imaging reflector positioned partially about the first light source, where a percentage of light emitted from the first light source is reflected from the re-imaging reflector to the reflective base adjacent the first light source establishing creating a first real image of the first light source adjacent the first light source such that wherein the reflective base reflects the light of the first real image ... etc." for the clarification. Although there was no agreement made between the attorney and the examiner, there was a mutual understanding that the claim language lacks clarification as presented. Claim term(s) is given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "... at least a reflective base that reflects a first real image ... etc.") are clearly described and shown in the prior art, Suehiro (USPN 6,886,962). For example, Figure 4 reference character '103a' (e.g., "a connecting portion") may be considered to be a reflective base while most light emitted from the light source and reflected by reflecting surface and condensed into the optical opening portion. Things clearly shown in reference patent drawing qualify as prior art features, even though unexplained by the specification. *In re Mraz*, 173 USPQ 25 (CCPA 1972). In addition, prior art reference Sun et al. (US 2004/0189933) clearly teaches that a reflective base (e.g., 122), a first light source (e.g., 121) positioned proximate the reflective base, and a re-imaging reflector (e.g., 120; [0073] "... planar mirror is positioned to reflect down-going light back up to lens ... etc.") positioned partially about the first light source (121), where a percentage of light emitted from the first light source (121) is reflected from the re-imaging reflector (122) to the reflective base [0073] adjacent the first light source (121) establishing a first real image of the first light source (121) adjacent the first light source such that the reflective base (122) reflects the light of the first real image.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).